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## EVALUATOR MANUAL TRANSMITTAL SHEET

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**Distribution:**

☒ **All Child Care Evaluator Manual Holders**  
☐ **All Residential Care Evaluator Manual Holders**  
☐ **All Evaluator Manual Holders**

**Transmittal No.**  
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**Subject:**

Reporting Requirements

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**Reason For Change:**

To update section 4-2100 to reference additional reporting and notification agreements documented in the Communication Agreement between the Community Care Licensing Division, California Department of Social Services, and the California Child Care Resource and Referral Network.

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**Filing Instructions:**

☒ REMOVE – Title page and Sections 4-0010 through 4-2110.

☒ INSERT – This package in place of the pages removed.

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**Approved:**

Original Copy Signed by

**Carole Jacobi**

CAROLE JACOBI, Chief  
Policy Development Bureau

7-16-99

Date

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Contact Person: Lynn Anderson

Phone Number: 916-323-3952

**REFERENCE MATERIAL**

**FOR**

**REPORTING REQUIREMENTS**

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**4-0010 MANDATORY REPORTING OF CHILD ABUSE****4-0010**

Laws regarding child abuse mandate that those professions identified as “Care Custodians” report any known or suspected instance of physical or sexual abuse of any child to a Child Protective Agency, including law enforcement. Employees of the Community Care Licensing Division (except clerical staff) are, for purposes of reporting child abuse, considered “Care Custodians” and must comply with specific reporting responsibilities when a complaint of abuse is received.

Agencies to whom these mandatory reports must be submitted include:

- City police departments
- County sheriff departments
- County probation departments
- County welfare departments’ protective service agencies

The following sub-sections distinguish the specific reporting requirements and the penalties for failure to comply.

**4-1100 CHILD ABUSE REPORTING REQUIREMENTS FOR CHILD CARE FACILITIES****4-1100**

Licensing evaluators/workers are considered “Child Care Custodians” for purposes of reporting and, as such, must comply with specific reporting responsibilities when an allegation of child abuse is received. Corporal punishment is considered to be child abuse and is reportable; the one exception is noted in the paragraph below.

For purposes of child abuse reporting only, the Penal Code (Section 273d and 11165(e)) defines corporal punishment or injury as a situation wherein any person willfully inflicts cruel or inhuman corporal punishment or injury resulting in a traumatic condition. All such injuries must be reported. However, for purposes of child abuse reporting, this definition does not apply to striking or spanking a child’s buttocks or hands with an open hand in such a manner as to have no more than a momentary affect, and leaves no imprint, bruise or mark. Nonetheless, while not reportable as child abuse, such practice is not permitted in licensed child day care facilities and is, therefore, reportable as a licensing complaint and requires investigation. No form of corporal punishment, including spanking, may be administered to a child in a licensed day care facility. In summary, open-handed spanking as described above does not meet the definition of child “abuse” and does not have to be referred to a Child Protective Agency; however, such spankings do meet the criteria of the corporal punishment prohibition in licensed facilities and are reportable as suspected violations of licensing regulations.

All information pertaining to an allegation of child abuse and/or an investigation is confidential. If an allegation is received by a licensing evaluator/worker, supervisor or manager, that individual is required to make the reports. If the allegation is received by a clerical employee, that employee should report all of the information to a licensing program supervisor or manager immediately. (Clerical staff are not mandated reporters and, therefore, do not report directly to a Child Protective Agency. However information on suspected child abuse received by clerical staff must be reported to a supervisor who in turn will fulfill the mandatory reporting requirements.)

**4-1100 CHILD ABUSE REPORTING REQUIREMENTS FOR  
CHILD CARE FACILITIES (Continued)****4-1100**

The requirement to report suspected child abuse is a legal obligation. Failure to comply is a misdemeanor punishable by six months in jail and a \$1,000 fine, and may give rise to personal liability. No one may hinder, or in any way intimidate another for the purpose of discouraging or preventing a mandated child care custodian from fulfilling his or her obligations. A mandated reporter is protected from liability arising from the fulfillment of this child abuse reporting obligation.

Based on a recent court decision (First Appellate District of the California Court of Appeal in the case of Planned Parenthood Affiliates of California vs. John K. Van de Kamp.) reports of voluntary, consensual sexual behavior between minors under the age of 14 who are of similar age is a violation of the minor's right to privacy guaranteed by the California Constitution. Thus, if there is no indication of actual sexual or other abuse, voluntary, consensual sexual behavior between minors under the age of 14 who are of similar age is not to be reported as child abuse. (Refer to DOJ Information Bulletin No. A-86-14-BCS/SS dated October 6, 1986 in the Appendix for the case reference and further explanation.)

For such activity to be considered child abuse for reporting purposes, a determination must be made that the activity was involuntary. Therefore, complaints received alleging this type of activity must be investigated using the normal complaint procedures for investigating abuse. If and/or when the results of the investigation reveal the consensual sexual relations were involuntary, then it is incumbent upon licensing to report as child abuse. If it is determined that the sexual behavior meets the criteria of the court decision, it need not be reported as child abuse.

It must be remembered, however, that our concern, with regard to such activities between all minors is whether the licensee is providing proper care and supervision, rather than who is abusing whom between two minors engaged in consensual sexual relations.

**CHILD ABUSE REPORTING PROCEDURES**

1. Contact the appropriate Child Protective Agency immediately upon receipt of a complaint alleging child abuse, or as soon as possible thereafter.

A "Child Protective Agency" is a police or sheriff's department, a county probation department, or a county welfare department. Experience indicates that most county probation or welfare departments do not investigate abuse in out-of-home care; therefore, licensing staff could refer to either the police or sheriff's department.

In the case of a report alleged abuse in the child's own home, a referral to any Child Protective Agency is appropriate.

2. The mandated reporter must provide the following information when making the telephone report:
  - The mandated reporter's name and telephone number
  - Name of the child(ren)
  - Present location of the child(ren)
  - Nature and extent of the injuries
  - Any other relevant information requested by the Child Protective Agency
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**4-1100 CHILD ABUSE REPORTING REQUIREMENTS FOR  
CHILD CARE FACILITIES (Continued)****4-1100**

The following information is not required but should be included if possible:

- Name of parents and home address(es) and phone number(s) of the child(ren) if known.
3. Within 36 hours of making the telephone report, a written report must be filed with the child Protective Agency. The SS 8572 "Suspected Child Abuse Form" is used for this purpose, and is available from the Child Abuse Unit of the Department of Justice. The back of the SS 8572 lists the instructions for completion of the report and the required distribution.  
  
Failure to report by telephone immediately or as soon as practically possible and in writing within 36 hours is a misdemeanor punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than \$1,000 or by both.
  4. If two or more mandated reporters become aware of a reportable complaint, they may designate one of themselves to make the required telephone and written report. This should be documented by all reporters involved. The LIC 812 should be used for this purpose. If a mandated reporter becomes aware that the designated individual failed to report, he/she must then make the report and document the date and time of the complaint and any other relevant information.
  5. Licensing staff must investigate all allegations of corporal punishment in licensed day care facilities. If, during an investigation, it is discovered that an incident not previously reported should have been, it must be reported immediately.

**4-2100 NOTIFYING RESOURCE AND REFERRAL AGENCIES****4-2100**

Resource and referral agencies funded by the State Department of Education (SDE), Child Development Division, are to be notified upon denial, revocation, temporary suspension of a license or within 24 hours of a finding that physical or sexual abuse has occurred. (Refer to Sections 101193 and 1-2240 for procedures).

Please also see APX-E (99 APX-09) for additional reporting and notification agreements documented in the Communication Agreement between the Community Care Licensing Division, California Department of Social Services, and the California Child Care Resource and Referral Network.

**4-2110 NOTIFYING THE STATE DEPARTMENT OF EDUCATION  
CHILD DEVELOPMENT DIVISION****4-2110**

As required by Health and Safety Code Section 1596.853(e) the SDE, Child Development Division, is to be notified when there is a denial, revocation or temporary suspension order issued against facilities funded by SDE, Child Development. (Refer to Sections 101193 and 1-2240 for procedures.)

**4-2110 NOTIFYING THE STATE DEPARTMENT OF EDUCATION  
CHILD DEVELOPMENT DIVISION****4-2110**

In addition, Health and Safety Code Section 1597.11 specifies that when a child care or development facility is found to have violations endangering the health and safety of the children in care, SDE, Child Development is to be notified no later than 15 days after substantiation of the violation(s). A copy of the LIC 809 or other appropriate public document, sent to SDE will satisfy this requirement.